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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

MAILED

APR 20 2011

OFFICE OF PETITIONS

In re Application of :
Goro SHIRAISHI, et al. :
Application No. 10/551,403 : **DECISION DISMISSING PETITION**
Filed: September 29, 2005 : **UNDER 37 CFR 1.313(c)(2)**
Attorney Docket No. **S1459.70086US00** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 11, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition was not referred to the appropriate deciding official for decision until after the issuance of this application into a patent. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. (Emphasis added)

In this case, the petition was not received in the Office of Petitions for consideration until April 20, 2011. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the \$810 filing fee and the \$130 petition fee submitted are unnecessary and will be refunded in due course.

The Information Disclosure Statement has been made of record in the file of the above-identified application without further consideration. See 37 CFR 1.97(i).

Petitioner is advised, that while petitions to withdraw from issue may be mailed to the Commissioner for Patents, as was done in this case, applicants were cautioned to hand carry or fax petitions to withdraw from issue directly to the Office of Petitions. See MPEP § 1308.

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions



Docket No.: S1459.70086US00
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Goro Shiraishi et al.
Serial No.: 10/551,403
Confirmation No.: 4461
Filed: September 29, 2005
For: TEMPO ANALYSIS APPARATUS AND METHOD
Examiner: A. R. Millikin
Art Unit: 2832

VIA HAND DELIVERY - APRIL 7, 2011

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401 Dulany Street
Alexandria, Virginia 22314

2011 APR 11 PM 4:11

USPTO
ACCOUNTING
DIVISION

**PETITION TO WITHDRAW APPLICATION FROM
ISSUE PURSUANT TO 37 CFR 1.313(c)(2)**

Dear Sir:

Petitioner hereby petitions the Commissioner to withdraw the above-identified application from issue. The Issue Fee in this application was timely paid on March 7, 2011.

Please charge our Deposit Account No. 23/2825 in the amount of \$940.00 covering the fees set forth in 37 CFR 1.17(h) and 1.17(e).

Petitioner respectfully petitions that the above-identified application be withdrawn from issue in order to permit consideration of a submission under 37 CFR 1.114 (Request for Continued Examination with an Information Disclosure Statement) a copy of which is enclosed.

The Director is hereby authorized to charge any deficiency or credit any overpayment in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 23/2825 under Docket No. S1459.70086US00.

10/551,403
133.00
940.00

Application No.: 10/551,403

2

Docket No.: S1459.70086US00

Dated: April 7, 2011

Respectfully submitted,

By: Randy J. Pritzker

Randy J. Pritzker

Registration No.: 35,986

WOLF, GREENFIELD & SACKS, P.C.

600 Atlantic Avenue

Boston, Massachusetts 02210-2206

617.646.8000



PETITION FEE Under 37 CFR 1.17(f), (g) & (h) TRANSMITTAL (Fees are subject to annual revision) Send completed form to: Commissioner for Patents P.O. Box 1450, Alexandria, VA 22313-1450	Application Number	10/551,403-Conf. #4461
	Filing Date	September 29, 2005
	First Named Inventor	Goro Shiraishi
	Art Unit	2832
	Examiner Name	A. R. Millikin
	Attorney Docket Number	S1459.70086US00

Enclosed is a petition filed under 37 CFR 1.313 that requires a processing fee (37 CFR 1.17(f), (g), or (h)). Payment of \$ 130.00 is enclosed.
This form should be included with the above-mentioned petition and faxed or mailed to the Office using the appropriate Mail Stop (e.g., Mail Stop Petition), if applicable. For transmittal of processing fees under 37 CFR 1.17(i), see form PTO/SB/17i.

Payment of Fees (small entity amounts are NOT available for the petition fees).

- ☒ The Commissioner is hereby authorized to charge the following fees to Deposit Account No. 23/2825 :
☒ petition fee under 37 CFR 1.17(f), (g) or (h) ☒ any deficiency of fees and credit of any overpayments
- ☐ Check in the amount of \$ _____ is enclosed.
- ☐ Payment by credit card (Form PTO-2038 or equivalent enclosed). Do not provide credit card information on this form.

Petition Fees under 37 CFR 1.17(f): Fee \$400 Fee Code 1462

For petitions filed under:

- § 1.36(a) - for revocation of a power of attorney by fewer than all applicants
- § 1.53(e) - to accord a filing date.
- § 1.57(a) - to accord a filing date.
- § 1.182 - for decision on a question not specifically provided for.
- § 1.183 - to suspend the rules.
- § 1.378(e) - for reconsideration of decision on petition refusing to accept delayed payment of maintenance fee in an expired patent.
- § 1.741(b) - to accord a filing date to an application under § 1.740 for extension of a patent term.

Petition Fees under 37 CFR 1.17(g): Fee \$200 Fee Code 1463

For petitions filed under:

- § 1.12 - for access to an assignment record.
- § 1.14 - for access to an application.
- § 1.47 - for filing by other than all the inventors or a person not the inventor.
- § 1.59 - for expungement of information.
- § 1.103(a) - to suspend action in an application.
- § 1.136(b) - for review of a request for extension of time when the provisions of section 1.136(a) are not available.
- § 1.295 - for review of refusal to publish a statutory invention registration.
- § 1.296 - to withdraw a request for publication of a statutory invention registration filed on or after the date the notice of intent to publish issued.
- § 1.377 - for review of decision refusing to accept and record payment of a maintenance fee filed prior to expiration of a patent.
- § 1.550(c) - for patent owner requests for extension of time in ex parte reexamination proceedings.
- § 1.956 - for patent owner requests for extension of time in inter partes reexamination proceedings.
- § 5.12 - for expedited handling of a foreign filing license.
- § 5.15 - for changing the scope of a license.
- § 5.25 - for retroactive license.

Petition Fees under 37 CFR 1.17(h): Fee \$130 Fee Code 1464

For petitions filed under:

- § 1.19(g) - to request documents in a form other than that provided in this part.
- § 1.84 - for accepting color drawings or photographs.
- § 1.91 - for entry of a model or exhibit.
- § 1.102(d) - to make an application special.
- § 1.138(c) - to expressly abandon an application to avoid publication.
- § 1.313 - to withdraw an application from issue.
- § 1.314 - to defer issuance of a patent.

Randy J. Pritzker
Signature

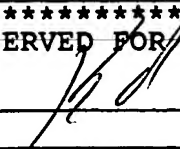
Randy J. Pritzker
Typed or printed name

April 7, 2011
Date

35,986
Registration No., if applicable

USPTO
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DIVISION

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND					
1 Date of Request: 04/20/11		2 Serial/Patent # 10/551,403			
3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT	
	Filing			\$	
	Amendment			\$	
	Extension of Time			\$	
	Notice of Appeal/Appeal			\$	
X	Petition 1464	PETWDISS	04/11/11	\$ 130.00	
	Issue			\$	
	Cert of Correction/Terminal Disc.			\$	
	Maintenance			\$	
	Assignment			\$	
X	Other 1801	RCEX	04/11/11	\$ 810.00	
			7 TOTAL AMOUNT OF REFUND		\$ 940.00
10 REASON:		8 TO BE REFUNDED BY:			
		Treasury Check			
		Credit Deposit A/C #:			
		9 2 3 -- 2 8 2 5			
X	No Fee Due (Explanation):				
Petition received LATE (after application already issued)					
11 REFUND REQUESTED BY:					
TYPED/PRINTED NAME: Monica A. Graves		TITLE: Paralegal Specialist			
SIGNATURE: /Monica A. Graves/		PHONE: (571) 272-7253			
OFFICE: Office of Petitions					
***** THIS SPACE RESERVED FOR FINANCE USE ONLY: *****					
APPROVED: 		DATE: 4/24/11			

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

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Refund Branch
Crystal Park One, Room 802B**